

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

DAVID STEBBINS,)
v. Plaintiff,)
RELIABLE HEAT & AIR, LLC, et al.,)
Defendants.)
Case No. 10-3305-CV-S-RED

ORDER

Before the Court is Plaintiff's Motion for Declaration of Law (Doc. 136) wherein Plaintiff requests the Court to declare that the Defendants' defense that his disability was causing customers to be dissatisfied with the company's service is insufficient to establish the affirmative defense of "bona fide occupational qualification." Defendants have filed no opposition.

In support of Plaintiff's request, Plaintiff cites *Diaz v. Pan American World Airways, Inc.*, 442 F.2d 385 (5th Cir. 1971) and a video posted on the website www.ada.gov. The video is not precedent legal authority for this Court and the *Diaz* case is from a different circuit. In addition, the *Diaz* case concerns a fact situation which is distinguished from the facts of this case and therefore is not an appropriate case for a "declaration of law" that would effectively rule on an issue in this case. Accordingly, this Court **DENIES** Plaintiff's Motion for Declaration of Law.

IT IS SO ORDERED.

DATED: October 4, 2011

/s/ Richard E. Dorr